

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

FAIR ISAAC CORPORATION, a
Delaware corporation,

Court File No. 16-cv-1054 (WMW/DTS)

Plaintiff,
v.

MOTION TO COMPEL DISCOVERY

FEDERAL INSURANCE COMPANY,
an Indiana corporation, and ACE
AMERICAN INSURANCE COMPANY,
a Pennsylvania corporation,

Defendants.

Defendants hereby move the Court to enter an order compelling Plaintiff Fair Isaac Corporation (“FICO”):

- (a) To produce all communications, including all letters and emails, related to its negotiations or decision-making with any software licensee that underwent a merger, acquisition, or similar change in control;
- (b) To produce all documents related to FICO’s pricing methods, including the factors and criteria FICO utilizes in determining license fees and discounts;
- (c) To produce all documents William Waid referenced in his April 2, 2019 deposition, including:
 - a. The notice from the FICO Finance Department that it was no longer using six year software license contracts. (Tr. 28:8-25; 213:16-214:6.)

- b. FICO Finance Department emails about the need to charge for maintenance and support on top of annual fees. (Tr. 36:10-15.)
- c. Emails stating that the standard maintenance fee is increasing from 18% to 20% and then to 22%. (Tr. 213:16; 214:6.)
- d. Documents reflecting how FICO's use of www.salesforce.com works. (Tr. 213:6-16.)
- e. The list of all customers, identifying the software license each customer has, and whether the customer had an enterprise license. (Tr. 174:20-24; 175:2-11.)
- f. Email, spreadsheets, and "support logs" relating to licensees who underwent mergers, acquisition, and changes in control. (Tr. 155:8-21; 157:18; 158:15; 194:9; 195:7.)

(d) An order re-opening the deposition of William Waid to be conducted in Minneapolis, Minnesota;

(e) An order precluding William Waid from testifying at trial about the lost license fees as identified in his February 5, 2018 Declaration and FICO's responses to Federal's Interrogatory Number 4;

(f) An order re-opening the 30(b)(6) deposition regarding Topics 4 and 22 and, alternatively, limiting FICO's claims to the specific alleged uses described in Thomas Carretta's October 9, 2018 deposition regarding Topic 22; and

(g) Requiring FICO provide sufficient descriptions of documents in its privilege log regarding use of Blaze software internationally occurring as early as 2008.

This motion is based on Rules 26, 33, 34, and 37 of the Federal Rules of Civil Procedure, the accompanying memorandum, the Declaration of Christopher D. Pham and supporting exhibits, the arguments of counsel, and all of the files, exhibits, records, and proceedings herein.

Respectfully submitted,

Dated: April 5, 2019

s/ Christopher D. Pham

Terrence J. Fleming (#0128983)

tfleming@fredlaw.com

Lora M. Friedemann (#0259615)

lfriedemann@fredlaw.com

Leah Janus (#0337365)

ljanus@fredlaw.com

Christopher D. Pham (#0390165)

cpham@fredlaw.com

FREDRIKSON & BYRON, P.A.

200 South Sixth Street, Suite 4000

Minneapolis, MN 55402-1425

(612) 492-7000 (tel.)

(612) 492-7077 (fax)

Attorneys for Defendants